

#Cela
Jup
8/21/3

PTO/SB/21 (01-03)

Approved for use through 04/30/2003. OMB 0851-0031
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/991,675	
	Filing Date	11/26/2001	
	First Named Inventor	Peter Fisser	
	An Unit	3637	
	Examiner Name	Hanh V. Tran	
Total Number of Pages in This Submission	27	Attorney Docket Number	0

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks <div style="text-align: center;"> <h1>Official</h1> <p>FAX RECEIVED MAY 27 2003 GROUP 3600</p> </div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual	Dr. Peter Fisser
Signature	<i>Dr. Peter Fisser</i>
Date	05/26/2003

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: 05/26/2003	
Typed or printed	Dr. Peter Fisser
Signature	<i>Dr. Peter Fisser</i>
Date	05/26/2003

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

Faxmessage 26 pages

To:
USPTO

Art Unit: 3637

attn: Mr. Hanh V. Tran

From:
Dr. Peter Fisser
Westerwohld 21
25826 St.Peter-Ording
Germany
fax (49) 4863 - 476 768

05/26/2003

re: Your Office Action date of mailing 02/28/2003 , Application No.09/991,675

Dear Mr. Tran,
Dear Sirs,

In order to comply with the 3 months limit, I am transmitting this reply by fax.
The following pages contain the introductory comments, amendments and the remarks which I am about to send you by mail, too. They follow the revised format and will hopefully conform to standards.

The numbering of the pages containing the amended drawings was put on the back sides and thus cannot be seen in this fax transmission. Please refer to the mailed pages.

I have made my amendments both in a marked up version and a clean version of the whole text which you can find on the last pages.
Please note that the clean version has new page numbers 1-8.

I have added a marked up version of the amended drawings to my mail. The changes are shown in red colour.

Best Regards,

Dr. P. Fisser

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) - 872 - 9326 on 05/26/2003 .

Typed or printed name of person signing this certificate:

Dr. Peter Fisser

Signature: Dr. Peter Fisser

AMENDMENTS TO PATENT APPLICATION NO. 09/991,675

Date: May, 2003

INTRODUCTORY COMMENTS

These comments refer to your Detailed Action date of mailing 02/28/2003.

The points marked in tall bold letters refer to the points of said Office Action.

Points 1. and 4. do not seem to require a specific response.

Re 2. :

The amended drawings are included in this reply. The Brief Description has been amended accordingly, and the Detailed Description was extended to include the drawing amendments.

Re 3. :

The Specification has been amended by shifting the last lines of p.3 to the beginning of p.4 (see Clean Version at the end of these Amendments, behind p.16).

Re 5. :

USP 5,178,595 (MacGregor, 1993) describes a walking device using two leg supports in conjunction. The upper support receives the user's thigh and the lower support the calf.

Although MacGregor's claims include "clamping means" for the "receiving members" (see his Claim 6.), they always refer to two supports ("receiving members") which are acting together.

The use of hand grips is not described in the patent nor is it intended;

"The walking device ... frees the user's hands" (p.1, 42-47).

What MacGregor effectively describes is a whole new walking device with a novel working mechanism.

My patent application, in contrast, refers only to a new component to be added to a conventional crutch, not a new walking device.

This component provides an already well known means of body weight transmission by using a support to receive the flexed knee or a part of the lower leg. What is new about it is the way in which it is attached to a crutch.

I will now try to show why I think that this attachment is a novel invention.

In my Description of Prior Art, the first two paragraphs refer to some old patents (e.g. Renno's patent of 1904 / USP 751,942 , Connaghan's patent of 1950 / USP 2,495,889 and Bostelman's patent of 1954 / USP 2,678,054).

All these patents use the same working principle. They refer to single knee or lower leg supports for axillary crutches without the use of an additional thigh support as described by MacGregor. Nevertheless, patent rights were granted, presumably because these single supports used different means of attachment to a crutch staff.

The knee support of Renno is adjustable, Connaghan describes a detachable crutch bracket for a knee support, Bostelman invents a flexible and foldable knee support and so on.

The fact that all these inventors made use of the same working principle was not seen as a hindrance to the award of a patent.

It was for this reason that I decided to file a patent application for my invention.

The prior state of the art never included easy-to-use detachable knee supports which could be used in standard crutches with a single aluminum or steel tubing as crutch staff.

None of the previous inventions describes clamp elements for such crutches. One of the reasons might be the fact that until recently, the most commonly used type of crutch was the axillary crutch with two upper struts for the arm rest.

In such a crutch, the use of a clamp element would be less practical than e.g. the use of a special bracket element as disclosed by Connaghan (USP 2,495,889 / 1950).

In recent years, the use of axillary crutches with a single tubing (e.g. "shepherd's crutch") has become more widespread and elbow crutches have become the most commonly used type of crutches.

In these crutches, a clamp would be a very practical means of attaching an additional component such as a knee support.

It was this insight which led to the development of the present invention. In addition, my invention comprises a novel stabilizing means for elbow crutches with a knee support.

However, as my claims in their present form would include a part of MacGregor's invention, because they make no reference to the intended use of the leg support and so would interfere with MacGregor's Claim 6., I have amended my Claims section and have restricted my Claim 1. to "A knee or lower leg support for crutches with a hand grip or axillary support.".

This wording should avoid any interference with the patent rights of MacGregor, because his invention does not make use of any hand grips, as I have pointed out in the beginning.

Furthermore, I have amended the definition of my plate holder element in Claim 1. to "a plate holder to which said cushion bearing plate is rigidly fixed".

This amendment takes the patent of Jih (USP 5,524,657 / 1996) into account and will be referred to below.

Re 6. :

The prior art does not describe a support for the knee or lower leg to be used in crutches where said support comprises one or more clamp elements as means of fixation.

Leu (USP 5,983,912 / 1999) describes a support shelf which is confined to the use in crutches with "*a pair of spaced, opposed downwardly converging rods*" (see his Claim 1.) and which uses an entirely different means of attachment.

Bierman (USP 5,941,263 / 1999) describes a whole "leg support crutch" (Claim 1.) including a special detachable strut (part 14 of his drawings). No reference is made to a detachable knee or lower leg component. As his invention does not make use of any hand grip or axillary support, my amended claims should not interfere with his patent rights.

Tilsley et al. (USP 5,746,236 / 1998) describe a special knee crutch where the knee support is already integrated into the crutch construction. No reference is made to a detachable knee support. Therefore, my claims should not interfere with their invention.

Jih (USP 5,524,657 / 1996) describes a leg support which can be used both to support parts of the lower leg or the thigh. In addition, his pad holder platform (25) is horizontally adjustable and consists of two parts (see his Claim 1.: "*An attachment comprising ... a platform ... having a first portion ... and a second portion...*"). As my amended claims are confined to a knee or lower leg support and do not include a bipartite platform / cushion bearing plate which is horizontally adjustable, no claim interference should occur.

Beatty (USP 4,910,927 / 1990) describes "A crutch attachment for supporting a knee" (see his Claim 1.). His invention is "*affixed to the crutch with the aid of a bolt and wing nut.*" (p.4, 16-17). This means of fixation is not further mentioned in his claims.

He refers to his invention as "*a vertical support assembly ... and a spring loaded knee support assembly retractably affixed to said vertical support assembly*" (Claim 1.). This specific definition of his leg support is so different from the invention I am describing that my claims should not interfere with his patent rights.

All the other patents cited (**Humbert et al.**, **Martinez, Monte, Jacobs, Tykwinski, Delacour et al.**, **Talati et al.**, **Skorman et al.**, **Iori et al.**, **Weigmann**) concern whole walking aids. None of them describes a detachable knee or lower leg support component which can be used in a conventional crutch without the need to make permanent changes (e.g. by making drill holes).